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10/822,109	04/09/2004	Peter Ploumitsakos	753-002	1712

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CLIFFORD G. FRAYNE  
Suite 7A  
136 Drum Point Road  
Brick, NJ 08723

EXAMINER

BUI, LUAN KIM

ART UNIT PAPER NUMBER

3728

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/822,109

Applicant(s)

PLOUMITSAKOS, PETER

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrases “first complimentary rigid shell members” and “said compartment” in claim 1 and “said housing” and “said hingeably secured longitudinal edge” in claim 3 lack proper antecedent basis. In claim 3, the phrase “a securing means” appears a double recitation of claim 1. In claim 1, a plurality of planar panels are not positively recited in the claim.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Clegg (6,520,514). Clegg discloses a mobile box (10) comprising a housing member formed of a first and second complimentary, rigid shell members (20, 50) having complementary peripheries and a securing means (62, 64) about the complementary peripheries. The first shell member having a pair of wheels (70, 72, 82) axially mounted at one longitudinal end, a handle means (92-94)

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secured to an opposing longitudinal end and a plurality of complimentary opposing channels (36a-j) formed on its inner side walls adapted to receive a plurality of panels (100, 120, 140, 160) (Figure 1). The box of Clegg is inherently capable for storage and transport of hand tools and power tools.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clegg (6,736,265) in view of Kipper et al. (6,736,265; hereinafter kipper'265). Clegg discloses the box as above having all the limitation of the claim except for the shell members being hingeably secured along one longitudinal edge. Kipper'265 shows a box (100) comprising a housing member formed of a first shell member (105, 110) and a second shell member (12). The second shell member hingeably secured along one longitudinal edge to the first shell member. It would have been obvious to one having ordinary skill in the art in view of kipper'265 to modify the housing member of Clegg so the first shell member is hingedably secured along one longitudinal edge to the second shell member to facilitate opening/closing the box.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clegg (6,736,265) in view of Official Notice and McCreary (6,247,588). Clegg further discloses the box can be

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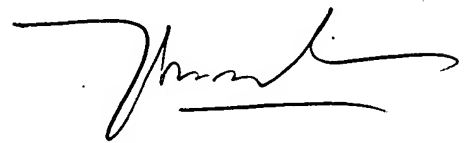
used to transport items in the user's automobile/permanent fixture. However, Clegg fails to show the box comprises a flexible securing means for securing the box to a permanent fixture. Official Notice is taken of the old and conventional practice for providing a securing means for securing a box to an automobile to prevent the box from moving. McCreary, is cited by way of example only, teaches a bag having a flexible securing means (74') for securing the bag to a permanent fixture (75)(Figure 3). It would have been obvious to one having ordinary skill in the art in view of Official Notice and McCreary to modify the box of Clegg so the box includes a flexible securing means for securing the box to a permanent object to prevent the box from moving during transportation.

#### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (571) 273-8300 for Formal papers and After Final communications.

lkb  
August 31, 2005



Luan K. Bui  
Primary Examiner